



# JOURNEY FROM BALLOT PAPERS TO EVMS: HOW INDIA VOTES

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## ABSTRACT

What happens when a constitutional body entrusted with conducting fair and transparent elections of the largest democracy in the world comes under intense scanner? This research study depicts the transformation in the process of conducting elections in India. A comprehensive study exhibiting the journey from archaic voting process involving ballot papers to the latest electronic voting machines. But as serious doubts have been casted even on the technological soundness of these electronic machines especially keeping in mind that various advanced countries have junked these machines and preferred ballot papers, a debate ensued in India to replace the same with the traditional method of ballot papers. However disregarding all these allegations, Election Commission of India has moved a step ahead and announced to introduce these electronic voting machines with voter verifiable paper audit trail, a method providing feedback to the voters verifying if their vote has gone to the intended candidate. This method will eliminate the chances of electronic voting machines getting tampered and will immensely restore the confidence of the voter in the electoral system making his vote count in the real sense.

**KEYWORDS:** Voter Verifiable Paper Audit Trail, Electronic Voting Machine, Election Commission of India, VVPAT, EVM

## INTRODUCTION:

Ever since gaining Independence from the British colonial rule, India has established itself as a democratic republic nation. Being tagged as the largest democracy in the world with almost 850 million registered voters who use their adult franchise in every election, this festival of democracy i.e; Election is a much talked about and celebrated occasion in the country.

One of the most important aspects of democratic set up in a country with federal structure is having elections at regular intervals. Therefore holding and conducting the elections in a free and fair way is quintessential in any democracy and in a country like India it goes deep in to the root of basic structure doctrine of the Constitution of India. The task of successful conducting of these elections which are voluminous in nature involving a protracted and cumbersome process has been assigned to the Election Commission of India ('ECI'). Involving several lakhs of workforce, series of training sessions to the professionals, dispensation of mass awareness to increase the overall footfall in the elections, accessing even the remotest location, and finally making all this happen as a smooth sail with the result announcement, the ECI, a constitutional entity totally pulls off this daunting errand with a smile. The ECI has been conferred with the responsibility of direction, superintendence and control on each and every Election in India and is successfully conducting various Parliamentary and State Legislative elections from last sixty eight years.

## Voting Process:

Voting Process in India has undergone a substantial change over the years i.e; from the use of Ballot Papers to Electronic Voting Machines (EVMs) which is further followed by EVMs with Voter Verifiable Paper Audit Trail (VVPAT). It is pertinent to mention that in the first two Parliamentary Elections held in the year 1952 and 1957, interestingly the names of the candidate and the symbol were not printed on the ballot papers rather each candidate was allotted a separate ballot box pasted with the name and symbol of the candidate, and the people had to drop a pre-printed ballot paper in the ballot box of the candidate of their choice. However this method of voting had a short run as it emanated fear of manipulations, booth capturing and different forms of tampering with the ballot boxes.

From the year 1960 till 1999, the very famous ballot papers were used in all Elections ranging from State level to General Elections wherein the voter used to stamp against the candidates' symbol of his choice in a pre-printed ballot paper having the names and symbols of all the candidates contesting. Usage of these ballot papers for almost four decades is evident that they had considerable success in conducting the elections. But with the exponential growth of the registered voters over the period of time spiced up with varied issues inter-alia large scale printing of ballot papers, requirement of numerous ballot boxes, safe storage of these ballot boxes, logistic problems, and counting of votes etc. the ECI was finding it hard to cope with these burgeoning challenges leading to various impediments in the electoral process. Furthermore lack of awareness and illiteracy played as a spoiler in rendering large scale invalid votes compelling to explore alternate avenues for the same.

## Introduction of EVMs:

Bracing up against the scathing problems ensuing from the ballot papers, for the first time in the year 1977, ECI had advocated the idea of EVMs for conducting

Elections in India and Mr. S.L. Shakhdar, the then Chief Election Commissioner approached Electronics Corporation of India Limited, to start a comprehensive research and sought the practicality of using EVMs in conducting the Elections. By the end of 1979 a prototype was developed by the Electronics Corporation of India and on 6th August, 1980, the ECI exhibited the said prototype to the representatives of various political parties which was duly welcomed by the representatives.

## Legal Battle:

After getting a 'go ahead' signal, the ECI in the year 1981 approached Bharat Electronics Limited, a Defense Ministry PSU to manufacture the EVMs. Thereafter on 19<sup>th</sup> May, 1982 ECI issued a directive under Article 324 of the Constitution of India which envisages superintendence, direction and control to the ECI in conducting Elections to use EVMs and conducted a trial run in around 50 polling stations in a bye election of Kerala Legislative Assembly (70-Parur Assemble Constituency). However the said Election was soon embroiled with legal obstacles as it was challenged in the court of law reaching up to the stage at Supreme Court wherein the Court held that "the order of the Election Commission directing casting of ballots by machines in some of the polling stations was without jurisdiction and could not have been resorted to". It further observed that "when the Representation of People Act 1951 and the Conduct of Election Rules 1961, prescribed a particular method of voting the Commission could-not innovate a new method and contend that use of the mechanical process was not covered by the existing law and, therefore, did not come in conflict with the law in the field. The Act and the Rules completely excluded the mechanical process which, if resorted to, would defeat in a large measure the mandatory requirements of the Rules".

The Supreme Court made it very clear that without inserting any specific provision in the Representation of People Act, 1951 with regard to voting by machines, Electronic Voting Machines cannot be used in polling booths for conducting Elections. Because Section 61 of the Representation of People Act, 1951 mandates that the voting shall only be conducted by the usage of Ballot Paper. This case in effect rendered voting through EVMs unlawful as a result of which Parliament made an amendment in the Act on 15th March, 1989 thereby inserting Section 61A enabling ECI to conduct Elections by using voting machines.

In the late 90s, the EVMs were intermittently used in conducting Elections in the states of Madhya Pradesh, Rajasthan and Delhi which was further substantially increased to various Parliamentary constituencies for General Elections. However its usage and the vires of Section 61-A of the Act was further challenged in the court of law, however Hon'ble Supreme Court of India by dismissing the Petition upheld the constitutional validity of the newly inserted Section and consented to use EVMs for conducting Elections.

Despite its effectiveness and technological advancement, speculations and doubts persisted both in the political arena and the society regarding the possibilities of tampering and rigging with EVMs and questions were raised before various High Courts between 2001 and 2005 with respect to its transparency. After going through the technological soundness and administrative measures involved, all the High Courts observed that EVMs are tamperproof, credible and reliable. Karnataka High Court praised the way voting changed in India by observing that "This invention is undoubtedly a great achievement in the elec-

tronic and computer technology and a national pride". Madras High Court further observed that "There is also no question of introducing any virus or bugs for the reason that the EVMs cannot be compared to personal computers. The programming in computers, as suggested, has no bearing with the EVMs. The computer would have inherent limitations having connections through Internet and by their very design, they may allow the alteration of the programme but the EVMs are independent units and the programme in EVM is entirely a different system".

#### Looming threats of Transparency:

Notwithstanding ECI patting on its back for transforming the traditional, archaic way of voting through postal ballots with voting machines backed by sound technological systems and Indian Courts reaffirming the infallibility and giving credence to the same, threats of its transparency and vulnerability can't be ruled out. There are numerous instances wherein the voters had alleged that despite pressing button for a particular candidate, the red light gleams against a different candidate.

According to a report of BBC in the year 2010, the researchers in the University of Michigan had developed a technique hacking into the system by developing a homemade device connected to the EVM. Facing with severe criticism about the veracity of EVMs, ECI was constrained to throw an open challenge inviting skeptics to hack its EVMs; however no political party had contested this challenge.

The recent incident pertaining to Bhandar by-election cannot be ignored where it was alleged that on pressing 4 (four) different buttons on the EVM, only the symbol of one party were printed. However the enquiry report by ECI denies any transparency flaw, stating the reason that the earlier data was not erased due to the non-adherence of prescribed protocol by the competent officers. Another incident in Dholpur (Rajasthan) Assembly by-poll election emerged where the EVM malfunctioning was alleged but the same have been vehemently denied by ECI.

Time and again various political parties and their leaders have doubted the precision of EVMs. But nowadays the debate has gone a bit notch higher after the recently concluded Assembly Elections of 5 states in 2017. Representatives of as much as 13 political parties met the ECI and submitted their joint representation expressing concerns and apprehensions about the transparency in voting through EVMs.

#### International Comparisons:

It might come as a bolt from the blue that most advanced nations in the world don't really fancy electronic voting. At least 24 countries have dabbled with electronic voting and today EVMs are under intense scanner. Serious doubts have been casted upon the accuracy, reliability, transparency and security of the Voting Machines.

Netherlands had banned the use of EVMs in the elections from October 2006. In spite of investing millions for the whole setup, the voting machines manufactured by a private Dutch company 'NEDAP' came to a standstill after an independent investigation finding them averse to modern IT and security threats. Ireland also terminated its use in 2004 citing inadequate technological safeguards.

Germany had discontinued its e-voting machines manufactured from 'NEDAP' as it violated public nature of elections which requires that all essential steps in the Elections are subject to public examinability rendering voting through EVMs unconstitutional.

United States of America, second largest democracy after India does not have any standard system when it comes to voting as it is controlled by states and administered by counties and local government. Voting machines are used in some states while some use punch card systems, hand counted paper ballots etc. A TIME Report quotes the US Election Assistance Commission Chairman Tom Hicks in 2016 saying that the "primary reasons" paper ballots are used in most states are "security and voter preference".

Venezuela had introduced electronic voting in the year 1998 and rose to achieve the feat of becoming the first country in the world to use touch screens for registering votes. This technological advent further helped in eliminating duplication of votes by taking thumb prints of the electorates. Despite such hi-tech setup even this country grappled in a controversy in the recently held Presidential Elections. Smartmatic, the company which provides voting machines in Venezuela had made a statement that the elections have been manipulated by almost 1 million votes. Smartmatic CEO Antonio Mugica at a news briefing in London stated "We know, without any doubt, that the turnout of the recent election for a National Constituent Assembly was manipulated".

Turning the tables to the nation where electronic voting had become an integral part and is thriving in the true sense is Brazil, which became the first country in the year 2000 to conduct elections completely by electronic voting system. Since then the country has maintained its electronic voting process with furthermore sound technical advancement. This success becomes exemplary keeping in mind a whopping more than 140 million registered voters.

#### EVMS with VVPAT:

It is a method which provides feedback to the voters verifying if their vote has gone to the intended candidate. So does ECI's imperiousness in using EVMs along with VVPAT is staring at transparency in the Elections? Bracing up against the scathing attack from various political parties and organizations, ECI for the very first time on 04.09.2013 successfully conducted bye-election in 21 polling stations from Noksen (Nagaland) constituency through VVPAT system. Further Hon'ble Supreme Court of India observed that "the 'paper trail' is an indispensable requirement of free and fair elections. The confidence of the voters in the EVMs can be achieved only with the introduction of the 'paper trail'. EVMs with VVPAT system ensure the accuracy of the voting system". A direction was given to the ECI to implement the same in the ensuing general elections in a gradual and phased manner taking into account one million registered voters.

#### CONCLUSION:

Conducting successful Elections with VVPAT in various polling booths in recent Assembly Elections in 2017 are a great achievement by ECI, inching closer to the transparency and credibility of fair Elections. Restoring the confidence of voters and eliminating the chances of EVMs being tampered which is sine qua non in a democratic set-up; this novel and unprecedented move to a large extent will definitely strengthen the fundamental belief of democratic values thereby letting the voter count his vote in a true sense and making this festival more exuberant and pious.

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